

SUMMARY ANALYSIS OF AMENDED BILL

Author: McClintock & Florez Analyst: Deborah barrett Bill Number: SB 1494
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: April 10, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Taxpayer Transparency Act Of 2008/State Agencies Shall Develop And Operate Web Site Accessible By The Public At No Cost With Specified Information

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the
☒ previous analysis of bill as introduced February 21, 2008.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED
☒ February 21, 2008, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would require a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds.

SUMMARY OF AMENDMENTS

The April 10, 2008, amendments would do the following:

- Make several nonsubstantive technical changes to the language,
- Revise the date by which each agency must develop and operate a Web site from January 1, 2009, to July 1, 2009,
- Require the Website to be updated monthly rather than annually, and
- Add the office of the State Chief Information Officer (SCIO) and the Department of General Services (DGS) to the list of entities a state agency is required to work with to compile and provide the information required under this bill's provisions.

Board Position:

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Legislative Director

Date

Brian Putler

4/23/08

The April 10, 2009, amendments did not resolve all of the "Implementation Concerns" identified in the department's analysis of the bill as introduced February 21, 2008. The unresolved concerns are repeated here for convenience. The "This Bill" and "Fiscal Impact" discussions have been revised. The remainder of the department's analysis of the bill as introduced February 21, 2008, still applies.

POSITION

Pending.

THIS BILL

This bill would enact the Taxpayer Transparency Act of 2008 (Act). The act would require a state agency, with assistance from the office of the SCIO, the Department of Finance (DOF), DGS, and the Governor's office to develop and operate a Web site accessible by the public at no cost that includes:

- Specified information on each expenditure of state funds by that agency,
- The ability of the user to view information on the Web site in a format that is searchable and can be downloaded and managed by the user with appropriate software, and
- The ability for users to provide input to the agency regarding the utility of the site and recommendations for improvements to the site.

The information required on the Web site for each expenditure of state funds, would include, but not be limited to the following:

- The name and principal location or residence of each entity or other recipient of the funds.
- The amount of expenditure.
- The type of transaction.
- The identity of the department, agency, office or other entity of state government making the expenditure.
- The program budget source for the expenditure.
- A description of the purpose of the expenditure.
- A description of any item purchased pursuant to the expenditure.
- Any other information deemed relevant by DOF, SCIO, DGS, and the Governor's office.

The Web site would be required to include information for the 2007-2008 fiscal years by July 1, 2009, and thereafter shall be updated and include information for the most recent completed month.

The bill would provide definitions of the following terms:

- “Searchable Web site” would mean a Web site that allows the public to search and aggregate information identified under this bill’s provisions accessible from the agency’s homepage.
- “Expenditure of state funds” would mean the expenditure or transfer of state appropriated or non-appropriated funds in an amount in excess of one thousand dollars (\$1,000) in the form of including but not limited to grants, contracts, subcontracts, purchase orders, tax refunds, rebates, credits, and expenditures from the Reserve for Revenue Fluctuations.

Expenditures of state funds would not include the transfer of funds between two departments, agencies, offices, or entities of state government, or the transfer of state or federal assistance payments to an individual recipient or beneficiary of those assistance payments.

Each department, agency, and entity of state government would be required to cooperate fully with DOF, SCIO, DGS, and the Governor’s office in gathering and providing all information necessary to comply with the requirements of this bill. The bill specifically states that nothing in the bill requires disclosure of information deemed confidential or otherwise exempt from disclosure under state or federal law.

IMPLEMENTATION CONSIDERATIONS

The language of the bill requires information regarding tax refunds, rebates, and credits to be accessible on the department’s Web site, which would violate disclosure laws within the Revenue and Taxation Code (R&TC). If it is the author’s intent that confidential taxpayer information be disclosed, it is recommended that the bill be amended to add an express exception to the R&TC.

Because state agencies are already required to report contracts and purchases over \$5,000 to DGS for posting in the State Contract and Procurement Registration System (SCPRS), the requirement to place similar contract or purchase information on agency Web sites could be duplicative. The author may want to consider requiring the threshold for reporting contracts and purchases to DGS be lowered to \$1,000, which would accomplish the same level of transparency to the public without unnecessarily duplicating information or maintenance on all state agency Web sites.

Requiring the department to post purchases made for physical and information security purposes would be disclosing sensitive information to the general public regarding the type, brand, and quantity of security solutions used to protect department facilities and information infrastructure. This information could be used to analyze the means necessary to breach established security perimeters and could defeat or interrupt the operations of the systems that are in place.

The bill would require a state agency to develop a “Web site” that would provide access to the information specified in the bill. This would require state agencies that already maintain their own Web sites to establish a duplicate site, which would add to the costs for maintenance and development of that Web site. The author may want to change the terminology to “Web page” so that agencies with existing Web sites can add a page with the required information instead of creating an additional site.

FISCAL IMPACT

The department would be required to develop a Web site containing the specified information although it is not clear whether the existing Web site maintained by the department would suffice for purposes of this bill. Until the implementation concerns identified above are resolved, FTB is unable to quantify the extent of the impact of this bill on the department's programs and operations.

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